

WAC 246-310-280 Kidney disease treatment centers--

Definitions. The following definitions apply to WAC 246-310-280, 246-310-282, 246-310-284, 246-310-286, 246-310-287, 246-310-288, and 246-310-289:

(1) "Base year" means the most recent calendar year for which December 31 data is available as of the first day of the application submission period from the *Northwest Renal Network's Modality Report* or successor report.

(2) "Capital expenditures," as defined by Generally Accepted Accounting Principles (GAAP), are expenditures made to acquire tangible long-lived assets. Long-lived assets represent property and equipment used in a company's operations that have an estimated useful life greater than one year. Acquired long-lived assets are recorded at acquisition cost and include all costs incurred necessary to bring the asset to working order. The definition of a capital expenditure includes the following types of expenditures or acquisitions:

(a) A force account expenditure or acquisition (i.e., an expenditure for a construction project undertaken by a facility as its own contractor).

(b) The costs of any site planning services (architect or other site planning consultant) including but not limited to studies, surveys, designs, plans, working drawings, specifications, and other activities (including applicant staff payroll and employee benefit costs, consulting and other services which, under GAAP or Financial Accounting Standards Board (FASB) may be chargeable as an operating or nonoperating expense).

(c) Capital expenditure or acquisition under an operating or financing lease or comparable arrangement, or through donation, which would have required certificate of need review if the capital expenditure or acquisition had been made by purchase.

(d) Building owner tenant improvements including but not limited to: Asbestos removal, paving, concrete, contractor's general conditions, contractor's overhead and profit, electrical, heating, ventilation and air conditioning systems (HVAC), plumbing, flooring, rough and finish carpentry and millwork and associated labor and materials, and utility fees.

(e) Capital expenditures include donations of equipment or facilities to a facility.

(f) Capital expenditures do not include routine repairs and maintenance costs that do not add to the utility of useful life of the asset.

(3) "Concurrent review" means the process by which applications competing to provide services in the same planning area are reviewed simultaneously by the department. The

department compares the applications to one another and these rules.

(4) "End-of-year data" means data contained in the fourth quarter modality report or successor report from the Northwest Renal Network. For these rules, end-of-year and year-end have the same meaning.

(5) "End-of-year in-center patients" means the number of in-center hemodialysis (HD) and self-dialysis training patients receiving in-center kidney dialysis at the end of the calendar year based on end-of-year data.

(6) "Kidney disease treatment center" means any place, institution, building or agency or a distinct part thereof equipped and operated to provide services, including outpatient dialysis, to persons who have end-stage renal disease (ESRD). In no case shall all stations at a given kidney disease treatment center be designated as self-dialysis training stations. For purposes of these rules, kidney disease treatment center and kidney dialysis facility have the same meaning.

(7) "Kidney dialysis facility" means any place, institution, building or agency or a distinct part thereof equipped and operated to provide services, including outpatient dialysis, to persons who have end-stage renal disease (ESRD). In no case shall all stations at a given kidney disease treatment center be designated as self-dialysis training stations. For purposes of these rules, kidney dialysis facility and kidney disease treatment center have the same meaning.

(8) "Planning area" means an individual geographic area designated by the department for which kidney dialysis station need projections are calculated. For purposes of kidney dialysis projects, planning area and service area have the same meaning.

(9) "Planning area boundaries": Each county is a separate planning area, except for the planning subareas identified for King, Snohomish, Pierce, and Spokane counties. If the United States Postal Service (USPS) changes zip codes in the defined planning areas, the department will update areas to reflect the revisions to the zip codes to be included in the certificate of need definitions, analyses and decisions.

(a) King County is divided by zip code into twelve planning areas as follows:

KING ONE	KING TWO	KING THREE
98028 Kenmore	98101 Business District	98070 Vashon
98103 Green Lake	98102 Eastlake	98106 White Center/West Seattle
98105 Laurelhurst	98104 Business District	98116 Alki/West Seattle
98107 Ballard	98108 Georgetown	98126 West Seattle

98115 View Ridge/Wedgwood	98109 Queen Anne	98136 West Seattle
98117 Crown Hill	98112 Madison/Capitol Hill	98146 West Seattle
98125 Lake City	98118 Columbia City	98168 Riverton
98133 Northgate	98119 Queen Anne	
98155 Shoreline/Lake Forest Park	98121 Denny Regrade	
98177 Richmond Beach	98122 Madrona	
98195 University of Washington	98134 Harbour Island	
	98144 Mt. Baker/Rainier Valley	
	98199 Magnolia	

KING FOUR	KING FIVE	KING SIX
98148 SeaTac	98003 Federal Way	98011 Bothell
98158 SeaTac	98023 Federal Way	98033 Kirkland
98166 Burien/Normandy Park		98034 Kirkland
98188 Tukwila/SeaTac		98052 Redmond
98198 Des Moines		98053 Redmond
		98072 Woodinville
		98077 Woodinville

KING SEVEN	KING EIGHT	KING NINE
98004 Bellevue	98014 Carnation	98055 Renton
98005 Bellevue	98019 Duvall	98056 Renton
98006 Bellevue	98024 Fall City	98058 Renton
98007 Bellevue	98045 North Bend	98059 Renton
98008 Bellevue	98065 Snoqualmie	98178 Skyway
98027 Issaquah		
98029 Issaquah		
98039 Medina		
98040 Mercer Island		
98074 Sammamish		
98075 Sammamish		

KING TEN	KING ELEVEN	KING TWELVE
98030 Kent	98001 Auburn	98022 Enumclaw

98031 Kent	98002 Auburn	
98032 Kent	98010 Black Diamond	
98038 Maple Valley	98047 Pacific	
98042 Kent	98092 Auburn	
98051 Ravensdale		

(b) Pierce County is divided into five planning areas as follows:

PIERCE ONE	PIERCE TWO	PIERCE THREE
98354 Milton	98304 Ashford	98329 Gig Harbor
98371 Puyallup	98323 Carbonade	98332 Gig Harbor
98372 Puyallup	98328 Eatonville	98333 Fox Island
98373 Puyallup	98330 Elbe	98335 Gig Harbor
98374 Puyallup	98360 Orting	98349 Lakebay
98375 Puyallup	98338 Graham	98351 Longbranch
98390 Sumner	98321 Buckley	98394 Vaughn
98391 Bonney Lake		

PIERCE FOUR	PIERCE FIVE
98402 Tacoma	98303 Anderson Island
98403 Tacoma	98327 DuPont
98404 Tacoma	98387 Spanaway
98405 Tacoma	98388 Steilacoom
98406 Tacoma	98430 Tacoma
98407 Ruston	98433 Tacoma
98408 Tacoma	98438 Tacoma
98409 Lakewood	98439 Lakewood
98416 Tacoma	98444 Parkland
98418 Tacoma	98445 Parkland
98421 Tacoma	98446 Parkland
98422 Tacoma	98447 Tacoma
98424 Fife	98467 University Place
98443 Tacoma	98498 Lakewood

98465 Tacoma	98499 Lakewood
98466 Fircrest	98580 Roy

(c) Snohomish County is divided into three planning areas as follows:

SNOHOMISH ONE	SNOHOMISH TWO	SNOHOMISH THREE
98223 Arlington	98201 Everett	98012 Mill Creek/Bothell
98241 Darrington	98203 Everett	98020 Edmonds/Woodway
98252 Granite Falls	98204 Everett	98021 Bothell
98271 Tulalip Reservation/ Marysville	98205 Everett	98026 Edmonds
98282 Camano Island	98208 Everett	98036 Lynnwood/Brier
98292 Stanwood	98251 Gold Bar	98037 Lynnwood
	98224 Baring	98043 Mountlake Terrace
	98258 Lake Stevens	98087 Lynnwood
	98270 Marysville	98296 Snohomish
	98272 Monroe	
	98275 Mukilteo	
	98288 Skykomish	
	98290 Snohomish	
	98294 Sultan	

(d) Spokane County is divided into two planning areas as follows:

SPOKANE ONE	SPOKANE TWO
99001 Airway Heights	99003 Chattaroy
99004 Cheney	99005 Colbert
99011 Fairchild Air Force Base	99006 Deer Park
99012 Fairfield	99009 Elk
99016 Greenacres	99021 Mead
99018 Latah	99025 Newman Lake
99019 Liberty Lake	99026 Nine Mile Falls
99022 Medical Lake	99027 Otis Orchards
99023 Mica	99205 Spokane

99030 Rockford	99207 Spokane
99031 Spangle	99208 Spokane
99036 Valleyford	99217 Spokane
99037 Veradale	99218 Spokane
99201 Spokane	99251 Spokane
99202 Spokane	
99203 Spokane	
99204 Spokane	
99206 Spokane Valley	
99212 Spokane Valley	
99216 Spokane/Spokane Valley	
99223 Spokane	
99224 Spokane	

(10) "Projection year" means the fourth year after the base year. For example, reviews using 2005 year-end data as the base year will use 2009 as the projection year.

(11) "Resident in-center patients" means in-center hemodialysis (HD) and self-dialysis training patients that reside within the planning area. If more than fifty percent of a facility's patients reside outside Washington state, the facility may include these out-of-state patients in the resident count for the planning area.

(12) "Service area" means an individual geographic area designated by the department for which kidney dialysis station need projections are calculated. For purposes of kidney dialysis projects, service area and planning area have the same meaning.

(13) "Training services" means services provided by a kidney dialysis facility to train patients for home dialysis. Types of home dialysis include at least, but are not limited to, the following:

- (a) Home peritoneal dialysis (HPD); and
- (b) Home hemodialysis (HHD).

[Statutory Authority: RCW 70.38.135. 06-24-050, § 246-310-280, filed 12/1/06, effective 1/1/07. Statutory Authority: Chapter 70.38 RCW. 96-24-052, § 246-310-280, filed 11/27/96, effective 12/28/96. Statutory Authority: RCW 70.38.135 (3)(c). 93-13-015 (Order 367), § 246-310-280, filed 6/7/93, effective 7/8/93. Statutory Authority: RCW 70.38.135 and 70.38.919. 92-02-018 (Order 224), § 246-310-280, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.70.040. 91-02-049 (Order 121), recodified as § 246-310-280, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.38.919. 90-16-058 (Order 073), § 248-19-701, filed 7/27/90, effective 8/27/90.]

WAC 246-310-282 Kidney disease treatment centers-- Concurrent review cycle. The department will review kidney dialysis facility applications using the concurrent review cycle described in this section. There are four concurrent review cycles each year; a cycle begins in January, April, July and October.

(1) Applicants must submit applications for review according to the following table:

		Application Submission Period	Department Action	Application Review Period
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Concurrent Review Cycle	Letters of Intent Due	Receipt of Initial Application	End of Screening Period	Applicant Response	Beginning of Review Preparation	Public Comment Period (includes public hearing if requested)	Rebuttal Period	Exparte Period
Kidney Dialysis Facility Cycle 1	First working day through last working day of January of each year.	First working day through last working day of February of each year.	Last working day of March of each year.	Last working day of April of each year.	May 1 through May 15	60-Day Public comment period Begins May 16 of each year or the first working day after May 16.	30-Day Rebuttal period Applicant and affected party response to public comment.	45-Day Exparte period Department evaluation and decision.
Kidney Dialysis Facility Cycle 2	First working day through last working day of April of each year.	First working day through last working day of May of each year.	Last working day of June of each year.	Last working day of July of each year.	August 1 through August 15	60-Day Public comment period Begins August 16 of each year or the first working day after August 16.	30-Day Rebuttal period Applicant and affected party response to public comment.	45-Day Exparte period Department evaluation and decision.
Kidney Dialysis Facility Cycle 3	First working day through last working day of July of each year.	First working day through last working day of August of each year.	Last working day of September of each year.	Last working day of October of each year.	November 1 through November 15	60-Day Public comment period Begins November 16 of each year or the first working day after November 16.	30-Day Rebuttal period Applicant and affected party response to public comment.	45-Day Exparte period Department evaluation and decision.
Kidney Dialysis Facility Cycle 4	First working day through last working day of October of each year.	First working day through last working day of November of each year.	Last working day of December of each year.	Last working day of January of each year.	February 1 through February 15	60-Day Public comment period Begins February 16 of each year or the first working day after February 16.	30-Day Rebuttal period Applicant and affected party response to public comment.	45-Day Exparte period Department evaluation and decision.

(2) The department should complete a concurrent review cycle within nine months. The department should complete the regular review process within six months.

(3) The department will notify applicants fifteen days prior to the scheduled decision date if it is unable to meet the deadline for making a decision on the application. In that event, the department will establish and commit to a new decision date.

(4) The department will not accept new applications

for a planning area if there are any pending applications in that planning area filed under a previous concurrent review cycle or applications submitted prior to the effective date of these rules that affect any of the new planning areas, unless the department has not made a decision on the pending applications within the review timelines of nine months for a concurrent review and six months for a regular review.

(5) The department may convert the review of an application that was initially submitted under a concurrent review cycle to a regular review process if the department determines that the application does not compete with another application.

[Statutory Authority: RCW 70.38.135. 06-24-050, § 246-310-282, filed 12/1/06, effective 1/1/07.]

WAC 246-310-284 Kidney disease treatment centers--
Methodology. A kidney dialysis facility that provides hemodialysis or peritoneal dialysis, training, or backup must meet the following standards in addition to applicable review criteria in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240.

(1) Applications for new stations may only address projected station need in the planning area in which the facility is to be located.

(a) If there is no existing facility in an adjacent planning area, the application may also address the projected station need in that planning area.

(b) Station need projections must be calculated separately for each planning area within the application.

(2) Data used to project station need must be the most recent five-year resident in-center year-end patient data available from the Northwest Renal Network as of the first day of the application submission period, concluding with the base year at the time of application.

(3) Projected station need must be based on 4.8 resident in-center patients per station for all planning areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum counties. The projected station need for these exception planning areas must be based on 3.2 resident in-center patients per station.

(4) The number of dialysis stations projected as needed in a planning area shall be determined by using the

following methodology:

(a) Determine the type of regression analysis to be used to project resident in-center station need by calculating the annual growth rate in the planning area using the year-end number of resident in-center patients for each of the previous six consecutive years, concluding with the base year.

(i) If the planning area has experienced less than six percent growth in any of the previous five annual changes calculations, use linear regression to project station need; or

(ii) If the planning area has experienced six percent or greater growth in each of the previous five annual changes, use nonlinear (exponential) regression to project station need.

(b) Project the number of resident in-center patients in the projection year using the regression type determined in (a) of this subsection. When performing the regression analysis use the previous five consecutive years of year-end data concluding with the base year. For example, if the base year is 2005, use year-end data for 2001 through 2005 to perform the regression analysis.

(c) Determine the number of dialysis stations needed to serve resident in-center patients in the planning area in the projection year by dividing the result of (b) of this subsection by the appropriate resident in-center patient per station number from subsection (3) of this section. In order to assure access, fractional numbers are rounded up to the nearest whole number. For example, 5.1 would be rounded to 6. Rounding to a whole number is only allowed for determining the number of stations needed.

(d) To determine the net station need for a planning area, subtract the number calculated in (c) of this subsection from the total number of certificate of need approved stations located in the planning area.

(5) Before the department approves new in-center kidney dialysis stations, all certificate of need approved stations in the planning area must be operating at 4.8 in-center patients per station for all planning areas except Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum counties. For these exception planning areas all certificate of need approved stations in the planning area must be operating at 3.2 in-center patients per station. Both resident and nonresident patients using the dialysis facility are included in this calculation. Data used to

make this calculation must be from the most recent quarterly modality report or successor report from the Northwest Renal Network as of the first day of the application submission period.

(6) By the third full year of operation, new in-center kidney dialysis stations must reasonably project to be operating at:

(a) 4.8 in-center patients per station for those facilities required to operate at 4.8 in-center patients as identified in subsection (5) of this section; or

(b) 3.2 in-center patients per station for those facilities required to operate at 3.2 in-center patients as identified in subsection (5) of this section.

[Statutory Authority: RCW 70.38.135. 06-24-050, § 246-310-284, filed 12/1/06, effective 1/1/07.]

WAC 246-310-286 Kidney disease treatment centers-- Standards for planning areas without an existing facility. Adams, Columbia, Douglas, Ferry, Garfield, Jefferson, Kittitas, Klickitat, Lincoln, Pacific, Pend Oreille, San Juan, Skamania, Stevens, and Wahkiakum planning areas do not have an existing kidney dialysis facility as of the effective date of these rules. The department will award the first project proposing to establish a facility in each of these planning areas a minimum of four stations provided the project meets applicable review criteria and standards. The facility must be projected to operate at 3.2 in-center patients per station by the third full year of operation. For purposes of this section, the applicant may supplement data obtained from the Northwest Renal Network with other documented demographic and utilization data to demonstrate station need.

[Statutory Authority: RCW 70.38.135. 06-24-050, § 246-310-286, filed 12/1/06, effective 1/1/07.]

WAC 246-310-287 Kidney disease treatment centers-- Exceptions. The department shall not approve new stations in a planning area if the projections in WAC 246-310-284(4) show no net need, and shall not approve more than the number of stations projected as needed unless:

(1) All other applicable review criteria and standards have been met; and

(2) One or more of the following have been met:

(a) The department finds the additional stations are needed to be located reasonably close to the people they serve; or

(b) Existing dialysis stations in the dialysis facility are operating at six patients per station. Data used to make this calculation must be from the most recent quarterly modality report or successor report from the Northwest Renal Network as of the first day of the application submission period; or

(c) The applicant can document a significant change in ESRD treatment practice has occurred, affecting dialysis station use in the planning area; and

(3) The department finds that exceptional circumstances exist within the planning area and explains the approval of additional stations in writing.

[Statutory Authority: RCW 70.38.135. 06-24-050, § 246-310-287, filed 12/1/06, effective 1/1/07.]

WAC 246-310-288 Kidney disease treatment centers--Tie-breakers. If two or more applications meet all applicable review criteria and there is not enough station need projected for all applications to be approved, the department will use tie-breakers to determine which application or applications will be approved. The department will approve the application accumulating the largest number of points. If sufficient additional stations remain after approval of the first application, the department will approve the application accumulating the next largest number of points, not to exceed the total number of stations projected for a planning area. If the applications remain tied after applying all the tie-breakers, the department will award stations as equally as possible among those applications, without exceeding the total number of stations projected for a planning area.

(1) The department will award one point per tie-breaker to any applicant that meets a tie-breaker criteria in this subsection.

(a) ***Training services (1 point):***

(i) The applicant is an existing provider in the planning area and either offers training services at the facility proposed to be expanded or offers training services in any of its existing facilities within a thirty-five mile radius of the existing facility; or

(ii) The applicant is an existing provider in the planning area that offers training services in any of its

existing facilities within thirty-five miles of the proposed new facility and either intends to offer training services at the new facility or through those existing facilities; or

(iii) The applicant, not currently located in the planning area, proposes to establish a new facility with training services and demonstrates a historical and current provision of training services at its other facilities; and

(iv) Northwest Renal Network's most recent year-end facility survey must document the provision of these training services by the applicant.

(b) **Private room(s) for isolating patients needing dialysis (1 point).**

(c) **Permanent bed stations at the facility (1 point).**

(d) **Evening shift (1 point):** The applicant currently offers, or as part of its application proposes to offer at the facility a dialysis shift that begins after 5:00 p.m.

(e) **Meeting the projected need (1 point):** Each application that proposes the number of stations that most closely approximates the projected need.

(2) Only one applicant may be awarded a point for each of the following four tie-breaker criteria:

(a) **Economies of scale (1 point):** Compared to the other applications, an applicant demonstrates its proposal has the lowest capital expenditure per new station.

(b) **Historical provider (1 point):**

(i) The applicant was the first to establish a facility within a planning area; and

(ii) The application to expand the existing facility is being submitted within five years of the opening of its facility; or

(iii) The application is to build an additional new facility within five years of the opening of its first facility.

(c) **Patient geographical access (1 point):** The application proposing to establish a new facility within a planning area that will result in services being offered closer to people in need of them. The department will award the point for the facility located farthest away from existing facilities within the planning area provided:

(i) The facility is at least three miles away from the next closest existing facility in planning areas that qualify for 4.8 patients per station; or

(ii) The facility is at least eight miles from the next closest existing facility in planning areas that qualify for 3.2 patients per station.

(d) **Provider choice (1 point):**

(i) The applicant does not currently have a facility located within the planning area;

(ii) The department will consider a planning area as having one provider when a single provider has multiple facilities in the same planning area;

(iii) If there are already two unrelated providers located in the same planning area, no point will be awarded.

[Statutory Authority: RCW 70.38.135. 06-24-050, § 246-310-288, filed 12/1/06, effective 1/1/07.]

WAC 246-310-289 Kidney disease treatment centers--Relocation of facilities. (1) When an entire facility proposes to relocate to another planning area, a new health care facility is considered to be established under WAC 246-310-020(1).

(2) When an existing facility proposes to relocate a portion of its stations to either another planning area or within the same planning area, a new health care facility is considered to be established under WAC 246-310-020(1).

(3) When an entire facility proposes to relocate within the same planning area, a new health care facility is not considered to be established under WAC 246-310-020(1) if:

(a) The existing facility ceases operation;

(b) No new stations are added to the replacement facility;

(c) There is no break in service between the closure of the existing facility and the operation of the replacement facility;

(d) The existing facility has been in operation for at least five years at its present location; and

(e) The existing facility has not been purchased, sold or leased within the past five years.

[Statutory Authority: RCW 70.38.135. 06-24-050, § 246-310-289, filed 12/1/06, effective 1/1/07.]